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April 4, 2006

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TRADEMARK TRIAL AND APPEAL BOARD
Commissioner for Trademarks
P.O. Box 1451
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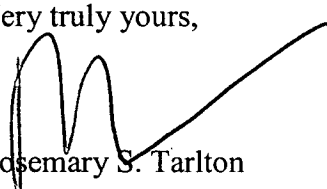
Re: *Athletics Investment Group LLC, d/b/a/ The Oakland Athletics Baseball Company v. Black Fives, Inc.*
Opposition No.: To Be Assigned
Mark: ALPHA PHYSICAL CULTURE CLUB A. 1904 and Design
Class 25
Serial No.: 78/116,093
Our reference: 52933-24003.32

Dear Commissioner:

Enclosed for filing is a Notice of Opposition (in triplicate), and a receipt verification postcard in the above-referenced matter.

The Commissioner is hereby authorized to charge \$300.00 for the opposition, and any additional fees which may be required, or to credit any overpayment, to **Deposit Account No. 03-1952 (our reference no. 529332400332)**. A duplicate copy of this letter and the Notice of Opposition is enclosed for this purpose.

Very truly yours,


Rosemary S. Tarlton



04-04-2006

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #34

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application Serial No. 78/116,093

Filed: March 20, 2002

For Trademark: ALPHA PHYSICAL CULTURE CLUB A 1904 and Design

Published in the Official Gazette on May 20, 2003

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ATHLETICS INVESTMENT GROUP LLC, d/b/a THE
OAKLAND ATHLETICS BASEBALL COMPANY

Opposer,

Opposition No.

NOTICE OF OPPOSITION

v.

BLACK FIVES, INC.

Applicant.

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TRADEMARK TRIAL AND APPEAL BOARD
Commissioner of Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer, Athletics Investment Group LLC, d/b/a The Oakland Athletics Baseball Company, a California limited liability company, having its principal place of business at 7000 Coliseum Way, Second Floor, Oakland, California 94621 ("Opposer"), believes that it will be damaged by registration of the ALPHA PHYSICAL CULTURE CLUB A 1904 and Design mark for "clothing, namely, shirts, shorts, jerseys, uniforms, hats, caps, scarves, headbands, jackets, coats, tops, pants, socks, shoes, boots, slippers, sneakers, underwear, sleepwear, ties, bottoms, wristbands, sweatbands, hosiery, sweat shirts, sweat pants, T-shirts, swimwear, beachwear, dresses, jumpers, play suits, thermal underwear, jeans, jumpsuits, skirts, overalls, leggings, warm-up suits, compression shirts" in International Class 25 as shown in Application Serial

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Opposition to Serial No. 78/116,093
Docket No. 52933-24003.32

No. 78/116,093 (the "Application"), and having been granted extensions of time to oppose up to and including April 4, 2006, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the OAKLAND ATHLETICS MAJOR LEAGUE BASEBALL Club, which is well-known by sports fans and enthusiasts, the press and the general public.

2. Upon information and belief, since long prior to March 20, 2002, Applicant's filing and constructive first use date for the Application and any use made by Applicant of the ALPHA PHYSICAL CULTURE CLUB A 1904 & Design mark consisting of a prominent stylized letter "A" within a circle design as shown in the Application (Applicant's Stylized A and Design Mark), Opposer and/or its predecessors individually and/or through their affiliates, licensees and/or sponsors adopted, used, and continue to use trademarks consisting of a stylized letter A alone, within a circle design, or with other word or design elements ("Opposer's Stylized A Marks"), in connection with Opposer's baseball game and exhibition services and a wide variety of goods and services, including, but not limited to, clothing, headwear, footwear, jewelry, printed matter, and novelty items.

3. Upon information and belief, Applicant did not use Applicant's Stylized A and Design Mark for the goods in the Application prior to Applicant's constructive first use date of March 20, 2002.

4. Opposer owns United States Federal registrations for certain of Opposer's Stylized A Marks for goods and services in International Classes 6, 9, 14, 16, 18, 20, 21, 24, 25, 28, and 41, namely U.S. Registration Nos. 1,263,825, 1,267,687, 2,573,396, 2,630,348, 2,759,932, and 1,530,675, 1,267,861, 2,417,758, 1,523,854, 1,570,831, 1,257,146, 1,530,851, 1,234,697, 1,560, 962 ("Opposer's U.S. Registrations"). Opposer's U.S. Registration Nos. 1,263,825, 1,267,687, 1,530,675, 1,590,962 and 1,530,851 are incontestable.

5. Upon information and belief, since long prior to March 20, 2002, Applicant's filing and constructive first use date for the Application and any use made by Applicant of Applicant's Stylized A and Design Mark, Opposer and/or its predecessors, individually and/or through their licensees, affiliates and/or sponsors have extensively promoted and advertised the sale and distribution of goods and services bearing Opposer's Stylized A Marks in connection with baseball game and exhibition services and a wide variety of goods and services, including, but not limited to, clothing, headwear, footwear, jewelry, printed matter, and novelty items, and have sold and/or distributed such goods and rendered such services in commerce.

6. As a result of said promotion and sales of its goods and services bearing Opposer's Stylized A Marks, Opposer has built up highly valuable goodwill in Opposer's Stylized A Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

7. On March 20, 2002, Applicant filed the Application for Applicant's Stylized A and Design Mark in connection with "clothing, namely, shirts, shorts, jerseys, uniforms, hats, caps, scarves, headbands, jackets, coats, tops, pants, socks, shoes, boots, slippers, sneakers, underwear, sleepwear, ties, bottoms, wristbands, sweatbands, hosiery, sweat shirts, sweat pants, T-shirts, swimwear, beachwear, dresses, jumpers, play suits, thermal underwear, jeans, jumpsuits, skirts, overalls, leggings, warm-up suits, compression shirts" in International Class 25.

8. The goods designated in the Application are identical and/or closely related to the goods offered and services rendered in connection with Opposer's Stylized A Marks and covered by Opposer's U.S. Registrations.

9. Upon information and belief, the goods covered by the Application, and Opposer's goods and services offered in connection with Opposer's Stylized A Marks are likely to be sold or rendered through the same channels of trade and ultimately to the same kinds of consumers.

10. Applicant's Stylized A and Design Mark contains a prominent stylized letter A within a circle design that so resembles Opposer's Stylized A Marks as to be likely, when applied to Applicant's goods to cause confusion, to cause mistake, and to deceive the trade and public, which are likely to believe that Applicant's goods have their origin with Opposer and/or that such goods are approved, endorsed, or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's Stylized A and Design Mark.

11. Opposer would be further injured by the granting of a certificate of registration to Applicant for the goods in the Application, because Applicant's Stylized A and Design Mark used in connection with these goods would falsely suggest a connection between Applicant and Opposer.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Stylized A and Design Mark shown in the Application in International Class 25, and prays that the opposition be sustained and said registration be denied.

Filing Fee: The Patent & Trademark Office is authorized to charge the \$300.00 for the filing of an opposition against one class in Application Serial No. 78/116,093, and any additional fees which may be required, or to credit any overpayment to **Deposit Account 03-1952 (Reference No. 529332400332)**. A duplicate copy of this document is being provided for that purpose.

Please recognize as attorneys for Opposer in this proceeding Rosemary S. Tarlton (member of the Bar of the State of California) and the firm of Morrison & Foerster LLP, 425 Market Street, San Francisco, CA 94105-2482.

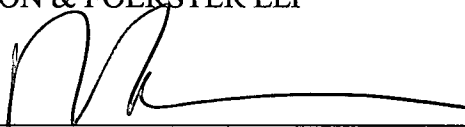
Please address all communications to Rosemary S. Tarlton at the address below.

Dated: San Francisco, California

April 4, 2006

Respectfully submitted,

MORRISON & FOERSTER LLP

By: 
Rosemary S. Tarlton

Morrison & Foerster LLP
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Attorneys for Opposer

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application Serial No. 78/116,093
Filed: March 20, 2002
For Trademark: ALPHA PHYSICAL CULTURE CLUB A 1904 and Design
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BLACK FIVES, INC.

Applicant.

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CERTIFICATE OF MAILING BY EXPRESS MAIL

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Commissioner:

Express Mail Label No.: EV782262089US

Date of Deposit: April 4, 2006

I hereby certify that the attached Transmittal letter + copy, Notice of Opposition; and receipt verification postcard are being deposited with the United States Postal Service Express Mail delivery as "Express Mail Post Office to Addressee" service under 37 C.F.R § 1.10 on the date indicated above, and is addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Respectfully submitted,

By: 

Jerome Lewis